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 7 UNITED STATES OF AMERICA

MAR - 4 2008

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 9 UNITED STATES DISTRICT COURT  
 10 SOUTHERN DISTRICT OF CALIFORNIA

08 CR 592 BTM

11 UNITED STATES OF AMERICA,

Magistrate Case No. 08MJ0463

12 Plaintiff,

13 v.

**STIPULATION OF FACT AND JOINT  
 MOTION FOR RELEASE OF  
 MATERIAL WITNESS(ES) AND  
 ORDER THEREON**

14 JUAN MANUEL VILLA,

15 Defendant.

**(Pre-Indictment Fast-Track Program)**

16  
 17 **IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES  
 18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and Carla J.  
 19 Bressler, Assistant United States Attorney, and defendant JUAN MANUEL VILLA, by and through  
 20 and with the advice and consent of Gregory Murphy, counsel for defendant, that:

21 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing  
 22 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,  
 23 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead  
 24 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count  
 25 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)  
 26 and (v)(II).

27 //

28 CJB:kmm:2/20/08

M/W Gabriel Martinez-Carbajal (on Bond)

1           2. Defendant acknowledges receipt of a plea agreement in this case and agrees to  
2 provide the signed, original plea agreement to the Government not later than five business days  
3 before the disposition date set by the Court.

4           3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or  
5 before **March 20, 2008**.

6           4. The material witnesses, Jose Manuel Arias-Rios, Jose Ines Arias-Rios and Gabriel  
7 Martinez-Carbajal, in this case:

8               a. Are aliens with no lawful right to enter or remain in the United States;

9               b. Entered or attempted to enter the United States illegally on or about  
10 February 15, 2008;

11              c. Were found in a vehicle driven by defendant in or near Pine Valley, California  
12 and that defendant knew or acted in reckless disregard of the fact that they were aliens with no lawful  
13 right to enter or remain in the United States;

14              d. Were paying or having others pay on their behalf \$2,000-2,200 to others to  
15 be brought into the United States illegally and/or transported illegally to their destination therein;  
16 and,

17              e. May be released and remanded immediately to the Department of Homeland  
18 Security for return to their country of origin.

19           5. After the material witnesses are ordered released by the Court pursuant to this  
20 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any  
21 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding,  
22 including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

23               a. The stipulated facts set forth in paragraph 4 above shall be admitted as  
24 substantive evidence;

25               b. The United States may elicit hearsay testimony from arresting agents  
26 regarding any statements made by the material witness(es) provided in discovery, and such testimony  
27 shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest

28 Stipulation of Fact and Joint Motion for Release of  
Material Witness(es) And Order Thereon in  
United States v. Juan Manuel Villa

1 of (an) unavailable witness(es); and,

2 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),  
3 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted  
4 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant  
5 waives the right to confront and cross-examine the material witness(es) in this case.

6 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
7 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
8 further that defendant has discussed the terms of this stipulation and joint motion with defense  
9 counsel and fully understands its meaning and effect.

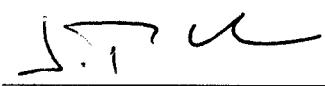
10 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
11 immediate release and remand of the above-named material witness(es) to the Department of  
12 Homeland Security for return to their country of origin.

13 It is STIPULATED AND AGREED this date.

14 Respectfully submitted,

15 KAREN P. HEWITT  
16 United States Attorney

17 Dated: 3/4/08

18   
fz CARLA J. BRESSLER  
Assistant United States Attorney

19 Dated: 2/4/08

20   
GREGORY MURPHY  
21 Defense Counsel for  
JUAN MANUEL VILLA

22 Dated: 2/4/08

23   
JUAN MANUEL VILLA  
24 Defendant

**ORDER**

Upon joint application and motion of the parties, and for good cause shown,

**THE STIPULATION** is admitted into evidence, and,

**IT IS ORDERED** that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to their country of origin.

**SO ORDERED.**

Dated: 3/4/08

C. Melwinski  
United States Magistrate Judge